



MINUTES

City Council Regular Meeting
August 17, 2021 - 7:00 PM

CALL TO ORDER

Mayor Rudy called the meeting to order at 6:59 p.m.

PLEDGE

ROLL CALL

Mayor:	Brian Rudy
Mayor Pro-Tem:	Mark Clark
Council:	Laura Speer
	Alicia Johnson
	Fred Neal
	Amanda Castle
	Tammy Mortenson

AUDIENCE PARTICIPATION

Mayor Rudy provided an update to the residents with concerns regarding speeding along 32nd Street.

Bethany Wipf, 3313 Carson Avenue, voiced concern above excessive noise generating from the Moose Lodge along 11th Avenue.

APPROVAL OF AGENDA

Mayor Pro-Tem Clark made the motion, seconded by Council Member Mortenson to approve the agenda as presented. The motion passed with all voting in favor thereof.

CONSENT AGENDA

1. Approval of the August 2, 2021 City Council Meeting Minutes
2. Consideration of Ordinance Number 748-21 Amending the 2021 Budget – 2nd Reading

Mayor Pro-Tem Clark made the motion, seconded by Council Member Speer to approve the consent agenda as presented. The motion passed with all voting in favor thereof.

OLD BUSINESS

3. Consideration of Resolution Number 19-2021 Authorizing a TABOR Election on November 2, 2021 and Setting the Ballot Language

Mr. Becklenberg reviewed the item as detailed in the agenda packet. As required by state law, the City Council must pass an ordinance or resolution calling for an election and setting the ballot question language in order to place a TABOR question on the ballot. At the August 2, 2021 Regular Meeting, City Council requested staff to modify the ballot question language to specify that design and maintenance of the Police Station facility shall also be eligible uses for the tax revenue. The deadline as set by Weld County is September 3rd.

Mayor Pro-Tem Clark believes that the ballot language is more clear than previously proposed.

Council Member Mortenson made the motion, seconded by Mayor Pro-Tem Clark to approve Resolution Number 19-2021 as presented. The motion passed with all voting in favor thereof.

4. Public Hearing: Consideration of New Brew Pub Liquor License for Brix Brewery LLC dba Brix Brewery and Taphouse at 3940 Carson Ave., Evans

Mayor Rudy re-opened the public hearing at 7:18 p.m.

Mr. Becklenberg reviewed the item as detailed in the agenda packet. He then turned the meeting over to Julie Kamka, City Clerk.

Julie Kamka provided an overview of the application for a Brew Pub Liquor License. Phil Jorgenson, managing member of Brix Brewery LLC dba Brix Brewery and Taphouse submitted an application for consideration of a Brew Pub Liquor License to operate a brew pub from 3940 Carson Avenue on June 21, 2021. The public hearing was opened on August 2, 2021 and was continued until August 17, 2021 due to a delay in receiving the results of the fingerprint background checks of the applicants. The City Council will be acting in a quasi-judicial role as the Local Licensing Authority to consider the approval of this Brew Pub Liquor License. This liquor license was submitted for concurrent review with the City which allows the State Liquor Enforcement Division to process the application while the City is also considering the application. The findings detailed in the staff report were read into the record.

Council Member Speer asked about the specific operations at this location. Mr. Phil Jorgenson, managing member of Brix Brewery LLC, responded that their intent is for manufacturing malt beverages at this location. Council Member Speer asked about the hours of operation. Mr. Jorgenson stated that the hours of operation will be 8:00 a.m. to 5:00 p.m.

Council Member Neal was pleased to hear the applicant has praised staff's work during the process.

Council Member Castle is excited about this project.

Mayor Rudy closed the public hearing at 7:26 p.m.

Council Member Johnson appreciates the applicant for choosing Evans for their manufacturing operations and hopes that they grow into more in the future.

Mayor Pro-Tem Clark thanked the applicant for choosing Evans and he looks forward to building a relationship with the business. He has been to the Greeley establishment, and it was fantastic. He looks forward to working with the business.

Mayor Rudy is very excited to have the business here in Evans and wished the applicant the very best.

Mayor Pro-Tem Clark made the motion, seconded by Council Member Neal for the approval of the Brew Pub License for Brix Brewery, LLC dba Brix Brewery and Taphouse, located at 3940 Carson Avenue. The motion passed with all voting in favor thereof.

NEW BUSINESS

5. Consideration of Ordinance Number 750-21, An Ordinance Amending Chapter 3.08 of the Evans Municipal Code to Add Requirements for Obtaining and Maintaining a Public Accommodations Tax License – 1st Reading

Mr. Becklenberg reviewed the item as detailed in the agenda packet. The Evans Police Department has observed and documented a substantial increase in criminal activity and calls for service in connection with lodging facilities. In a recent consecutive twelve (12) month period, eighteen percent (18%) of the total calls for service received by the Evans Police Department originated from Evans' lodging facilities. Excessive calls for service to the Evans Police Department from hotels and motels in the City consume an inordinate level of police department resources that negatively affects the health, safety, and welfare of the City. City Council considered a draft proposal to establish an accommodations licensing program at the August 2, 2021, Work Session. Hotel licensees were invited to participate. After hearing from Staff and hotel licensees, City Council directed Staff to formally propose an ordinance for consideration at the next regular meeting. On August 11, 2021, Chief of Police Rick Brandt and Economic Development Director Allison Moeding facilitated a meeting with hotel lodging licensees to develop terms of the ordinance to reduce criminal activity and calls for service without placing an undue regulatory burden upon the City's lodging facilities. The proposed ordinance, developed in consultation with the City's lodging licensees, will require hotel licensees with ten (10) or more rooms available for rent to follow the requirements listed in the staff report. He then turned the meeting over to Rick Brandt, Chief of Police, and Drew Lyman, Assistant City Attorney.

Rick Brandt provided an overview of the discussions with the hotel owners over the last several months. The conversations have been positive and constructive. There had been a

significant drop in calls for service in July which he attributes to the hotel owners communicating and working together. The owners do have some concerns about how the regulations will impact their businesses.

Drew Lyman provided an overview of the proposed ordinance, which is designed to reduce the number of Calls for Service (CFS) and criminal activities at the hotels.

Rick Brandt stated his findings on hotels that handle cash transactions in other municipalities.

Jim Becklenberg added that staff is encouraged by the recent decline in activities but still believes that the ordinance and regulations are necessary.

Robert Waldo, Attorney representing Louis and Terry Morales, owners of the Select Stay Hotel, spoke on behalf of all the owners. The owners are grateful of the recent progress and want to continue to cooperate with the police. He stated reasons he believes have contributed to the uptick in crime at the hotels: Population growth; unfilled Evans police officer positions; the nearby cold weather shelter; tent cities nearby; alcohol and drugs; sex trafficking and COVID-19. The hotel owners have been trying to solve the problems by paying sales, property and lodging taxes. The owners have been working together and with the police department. The owners patrol their properties every two hours. The owners had surveillance cameras installed. The owners would like to see if these measures work before they are required to hire a security guard. Some of the calls to 911 may be made by mistake since you must dial 9 first to get an outside line. The owners are obtaining photo ID's and working together on the Do Not Rent list. The owners are maintaining the lighting on the properties. The owners are renting rooms for a minimum of 12 hours and evict guests for using illegal drugs or conducting sex crimes, use violence or for threatened use of violence. The big issue to the owners is the security guard and the cost which would cut into their profits. He believes the owners should be given the opportunity to monitor their properties themselves. The owners are requesting time to work as a group and with the police to reduce the CFS and other issues.

Mayor Pro-Tem Clark thanked the hotel owners for working with the City and each other to help mitigate the situation. After what has transpired over the last couple of years, he believes the proposed ordinance is the right direction to resolve the issues. He somewhat agrees with the owners regarding the security guard requirement, but something must be done to address the issues.

Council Member Mortenson is glad to see the improvements that have been made. Maybe staff can look at the time of day that issues occur and require a security guard for those times, such as overnight. She is in favor of everything else in the proposed ordinance.

Council Member Speer is concerned with allowing the cash transactions and the reporting, or non-reporting, of those cash transactions. She is willing to allow it and see how it goes. As far as the issues, they get better and then they get worse again. She is in favor of the ordinance. She is also willing to consider requiring a security guard during specific times of

the day or night when issues tend to be worse. She is in favor of the ordinance with the slight modifications noted.

Council Member Neal believes that some hotels have a need for armed security, not necessarily with a 24-hour presence. These issues have been ongoing for over two years now. He believes these remedies need to be in place at this time and possibly taking another look at the need for security guards in the future. With regards to guests paying with cash, his experience with hotels around the country is that they take his ID to photocopy and his credit card.

Council Member Castle is in favor of the ordinance overall. She agrees with Mayor Pro-Tem Clark concerning the security guard for the reasons stated. She understands staff's desire to have that in place, but she is not certain it will help. She supports the requirement of a photo ID and other requirements. She asked if there could be a ninety-day trial period for compliance and if that does not work then require the security guard.

Council Member Johnson agrees with Council Member Castle's statements. The rest of the ordinance looks great.

Mayor Rudy agrees with Mayor Pro-Tem Clark, and he thanked the owners for working together to accomplish what they have so far. As far as the ordinance, he is in favor of all of it with the exception of the security guard. He suggested to Council that if the CFS ratio is greater than 2.25 during any consecutive twelve (12) month period as stated in item number 13, then the requirement for a security guard is imposed. He does not want to put a financial burden on the owners until the City has to.

Council Member Castle agrees with that but would like that time period to be shorter, maybe three months or six months.

Mayor Rudy agreed and asked how long of a time period Council Member Castle is recommending. She deferred to staff to determine that but would not want it to be longer than six months.

Drew Lyman stated that the ordinance was drafted so that the 12-month time period runs concurrently with the business license. He also stated that he can incorporate Council's request into item number 13 and remove item number 8 from the ordinance.

Mayor Pro-Tem would be in favor of that.

Council Member Mortenson asked if once a hotel gets above the 2.25 CFS, would the security guard be required 24-hours a day or during high call hours. Mayor Rudy would leave that to the Police Chief's discretion.

Council Member Speer agrees with Council Member Castle in having a shorter time period to review the number of CFS. She recommends 120 days. She asked Chief Brandt if the hotels he surveyed regarding the cash transactions had security. Chief Brandt responded

that he does not know but can find out and report back to Council. Council Member Speer is willing to give the hotels a 120-day trial period. Council Member Speer confirmed with staff that after the 120-day trial period, the 2.25 CFS would then be based on a 12-month period.

Mr. Becklenberg clarified that Section F.8. of the proposed ordinance would be stricken and the 120-day trial period would be added to Section F.13. He also clarified that the ability to require security would not take place until there has been 12 consecutive months of calls above the 2.25 ratio.

Council Member Speer stated that was not her intent. Her intent was to have the ability to require security would take place after 120-days of calls above the 2.25 ratio.

Scott Krob, City Attorney, asked Council if it is their intention that if the CFS go above the 2.25 ratio within a 120-day period, then the requirement for the hotel to hire a security guard for one year would kick in. If the CFS are at or below the 2.25, then the CFS ratio is reviewed every 120 days. Council agreed that is their intention. Scott Krob stated that Council could move forward and approve the first reading of the ordinance with the amendments stated. The ordinance would then be updated to reflect the changes and brought back to Council for the second reading. Section F.8. would be deleted and Section F.13. would be amended to reflect the requested changes.

Mayor Pro-Tem Clark made the motion, seconded by Council Member Speer to adopt Ordinance Number 750-21 to Amend Chapter 3.08 of the Evans Municipal Code to Add Requirements for Obtaining and Maintaining a Public Accommodations Tax License as outlined in provisions by the City Council for a 120-day period as mentioned by the City Attorney on the record. The motion passed with all voting in favor thereof.

6. Consideration of Contract for Evans Community Parking Lot Reconstruction

Mr. Becklenberg reviewed the item as detailed in the agenda packet. He then turned the meeting over to Mark Oberschmidt, City Engineer.

Mark Oberschmidt provided an overview of the proposed contract. In 2020, the City began looking at alternatives and costs for repairing the Evans Community Complex (ECC) parking lot surface. City Council approved \$550,000 from the Food Tax Fund for this project as part of the 2021 Capital Budget. A topographic survey of the parking was completed in 2020 to look at possibly regrading the parking lot to improve the drainage across the parking lot to the detention pond in the southeast corner of the ECC. The existing flat slopes of the parking lot lead to depressions that collect water and eventual pavement deterioration. After review of the topography, it was decided to install a valley pan from the west inlet into the ECC detention pond north into the parking lot to increase the cross slopes and improve drainage conveyance across the parking lot. A revised grading plan was completed, and the project was advertised for bids in July 2021. The project includes the replacement of damaged curb and gutter, installation of a valley pan to improve drainage conveyance from the parking lot to the detention pond, placement of new base and asphalt, and all new striping. During the

design phase, the City was approached by Envision about the prospect for including needed maintenance on the parking lot north of the Envision building. Inspection of the Envision parking lot revealed the need for some asphalt patching and some form of surface treatment to extend the life of the Envision parking lot. Staff recommended a treatment of Reclamite, a chemical surface treatment product that rejuvenates the oils in the asphalt and extends pavement life. This work is shown as an add alternate on the bid tab and will be paid for by Envision.

Council Member Neal asked staff about the new pan installation. Mark Oberschmidt stated that the parking lot only slopes at 1%, which is not ideal. A slope of 2% or greater is ideal. The pan will improve the drainage, which will extend the longevity of the parking lot.

Council Member Speer asked staff if this will be total parking lot redesign. Mark Oberschmidt stated no, the layout will remain the same. Just the grading will be redesigned. Council Member Speer asked why there is a big difference between the high and low bids. Mark Oberschmidt stated that some companies over bid simply because they did not want to the contract. It is late in the season. The price of asphalt is also significantly higher right now. Council Member Speer asked staff when the work in the parking lot is expected to start. Mark Oberschmidt stated that if Council approves the contract, he will work out a schedule with the contractor. The work should be done by the end of the year. Council Member Speer asked about the ballot drop box for the upcoming election. Mark Oberschmidt stated that a drivable surface will need to be maintained to allow access to the ballot drop box.

Council Member Mortenson asked staff to work in contingencies for the base after the issues on 35th Street. Mark Oberschmidt responded that more preliminary work is being done to reduce those contingencies.

Mayor Pro-Tem Clark is glad the project is finally getting done. The Community Complex is the heart of the City and the parking lot has been an eyesore.

Council Member Johnson believes that reconstructing the parking lot will help the aesthetics of the City Complex and it will create confidence with the residents that the City is working to make the entire City look good.

Council Member Speer made the motion, seconded by Council Member Mortenson to award the Evans Community Complex Parking Lot Reconstruction Project Contract in the amount of \$567,865.81 to Don Kehn Construction, Inc. with a 10% contingency to be used only with City Manager approval for a not to exceed contract amount of \$624,000. The motion passed with all voting in favor thereof.

7. Consideration of Resolution Number 20-2021 in Support of a Division of Local Affairs Grant Application through HB21-1271 for an Update of the Land Use Code

Mr. Becklenberg reviewed the item as detailed in the agenda packet. As federal stimulus funds are allocated to state agencies for specific purposes, agencies such as the Division of Local Affairs are starting to publish guidelines and requesting immediate applications.

The need for immediate response from communities is great as these funds must be expended prior to June 2024. City Council previously approved Resolution 18-2021 on August 2, 2021, in support of an application for funding through DOLA's Energy and Mineral Impact grant program to fund an update to the Land Use Code. DOLA has also received funds through the state allocation of stimulus funds through House Bill HB21-1271. These funds are to be used by local communities to update Land Use Codes to better streamline application processes, adopt creative solutions to housing, and to update development standards regarding housing. Staff is working closely with DOLA regarding the request supported by Resolution 18-2021 as well as this prospective request so that the City can maximize grant opportunities and enable the City to best compete for future funding opportunities available through federal stimulus monies. These future opportunities may include funding for land acquisition, acquisition of water, and infrastructure improvement costs associated with attainable housing projects. Staff has been coordinating with DOLA representatives regarding the opportunity to update the Land Use Code utilizing the two funding streams. The final application package for a HB21-1271 grant is due before September 2, 2021.

Mayor Pro-Tem Clark is thankful for all the grants that are being sought. He is in favor of it.

Council Member Mortenson made the motion, seconded by Council Member Neal to adopt Resolution Number 20-2021 in support of a grant application to the Division of Local Affairs for an allocation of funds through HB21-1271 to update the housing portions of the Land Use Code to reflect the vision, values and strategies established in the Master Plan update. The motion passed with all voting in favor thereof.

REPORTS

8. City Manager

Mr. Becklenberg provided an update on the Xcel work on 47th Avenue.

9. City Attorney

Scott Krob, City Attorney, provided an update on the One Love Business License.

AUDIENCE PARTICIPATION (general comments)

Grant Hoekstra, Evans, CO, commented on the public accommodations tax license ordinance.

EXECUTIVE SESSION

10. To receive legal advice on specific questions related to an intergovernmental agreement with the Evans Fire Protection District and to give direction to negotiators in connection with that agreement, pursuant to C.R.S. Section 24-6-402(4)(b) and (e)

Mayor Pro-Tem Clark made the motion, seconded by Council Member Mortenson to move into Executive Session at 8:37 p.m. to receive legal advice on specific questions related to an intergovernmental agreement with the Evans Fire Protection District and to give direction to negotiators in connection with that agreement, pursuant to C.R.S. Section 24-6-402(4)(b) and (e). The motion passed with all voting in favor thereof.

The meeting reconvened at 9:37 p.m.

Scott Krob noted for the record that the executive session that Council concluded was within the scope of the statute and that he was present for the duration of the discussion, so the discussion is subject to the attorney client privilege.

ADJOURNMENT

The meeting was adjourned at 9:37 p.m.


City Clerk



CITY OF EVANS – MISSION STATEMENT

“To deliver sustainable, citizen-driven services for the health, safety, and welfare of the community.”

It is the policy of the City of Evans that all programs and activities shall be accessible to, and usable by, persons with disabilities. Persons needing assistance shall contact the Safety & Risk Management Manager at the City of Evans. Please provide three to five business day's advance notice so we can adequately meet your needs.